

SENATE BILL NO. 479

BY SENATOR MORRIS AND REPRESENTATIVES AMEDEE, BACALA, BERAULT, BOUDREAUX, BOYER, BROUSSARD, BUTLER, CARLSON, CARRIER, CARVER, CHENEVERT, COX, CREWS, DESHOTEL, DEWITT, DICKERSON, EDMONSTON, EGAN, FIRMENT, GALLE, HORTON, MIKE JOHNSON, JACOB LANDRY, MCCORMICK, MCMAKIN, OWEN, SAWYER, SCHAMERHORN, SPELL, WILDER, WILEY AND WYBLE

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AN ACT

To enact Chapter 21-A of Title 42 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 42:1421 through 1424, relative to removal of public officials; to provide for removal of certain elected or temporarily appointed judges or a Louisiana Supreme Court justice by legislative impeachment; to provide relative to procedures; to provide for definitions; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 21-A of Title 42 of the Louisiana Revised Statutes of 1950, comprised of R.S. 42:1421 through 1424, is hereby enacted to read as follows:

**CHAPTER 21-A. REMOVAL OF PUBLIC OFFICIALS BY
LEGISLATIVE IMPEACHMENT**

§1421. Definitions

For the purposes of this Chapter:

(1) "Gross misconduct" means the grossly improper or willful and persistent failure in the performance of an official's duty to follow and apply the laws of this state or the laws of the United States or to persistently engage in grossly improper or illegal conduct which brings disrepute to the judicial system of this state or for a judge to willfully and persistently violate the canons of the Code of Judicial Conduct.

(2) "Malfeasance while in office" means substantial wrongdoing or misconduct by a judge in an official capacity that seriously undermines public

1 confidence in the judiciary, including but not limited to any intentional refusal
2 or other failure to perform any duty required by law, intentionally performing
3 official duties in an unlawful manner, intentional or willful commission of an
4 unlawful or wrongful act including the persistent refusal to follow the laws of
5 this state or the United States, or knowingly permitting any other public officer
6 or public employee, under his or her authority, to commit malfeasance in office.

7 §1422. Impeachment; procedure

8 A.(1) By majority vote of its elected members, the House of
9 Representatives is free to proceed with any impeachment under its own
10 constitutional authority at any time notwithstanding these procedures. The
11 House may adopt rules of impeachment and may act in accordance with those
12 rules during a session on any resolution of impeachment filed in the House of
13 Representatives in the same manner as for passing a bill through the House of
14 Representatives, but notwithstanding any deadline for filing bills or substantive
15 resolutions.

16 (2) This Section shall provide an additional method to orderly consider
17 impeachment.

18 (3)(a) If the complaint is against a judge, the speaker of the House of
19 Representatives or president of the Senate may elect to request a confidential
20 report from the Judiciary Commission to ascertain whether the matter is
21 already under active investigation or may elect to propose that the legislature
22 issue a Special Legislative Address for Investigation pursuant to R.S. 42:1423.

23 (b) If the complaint is against an official for conduct subject to the
24 jurisdiction of the Board of Ethics, the speaker of the House of Representatives
25 or president of the Senate may elect to request a confidential report from the
26 Board of Ethics to ascertain whether the matter is already under active
27 investigation.

28 (c) The speaker of the House of Representatives or president of the
29 Senate may direct that proceedings pursuant to this Section be paused pending
30 the conclusion of disciplinary proceedings in another body. However, upon

1 written petition of three-fifths of both the House of Representatives and the
2 Senate, the investigation shall proceed under this Section.

3 B. Upon request by three-fifths of both the House of Representatives and
4 Senate, which may be by written ballot, the speaker of the House of
5 Representatives shall appoint three members of the House of Representatives,
6 the president of the Senate shall appoint three members of the Senate, and the
7 speaker of the House of Representatives and president of the Senate shall jointly
8 appoint one member of the legislature as chair of a joint legislative committee
9 on an impeachment investigation. The joint committee shall have the power of
10 subpoena as a committee of the legislature.

11 C.(1) An impeachment investigation request under this Section may be
12 filed in writing by three-fifths of both the House of Representatives and the
13 Senate and shall be based upon a sworn complaint filed by any citizen with the
14 clerk of the House of Representatives alleging a violation warranting
15 impeachment under Section 24 of Article X of the Constitution of Louisiana.

16 (2) The complaint shall contain the name and legal address of the person
17 filing the complaint, be based on the complainant's personal knowledge, state
18 detailed facts, specify the actions of the named respondent which form the basis
19 for the complaint, and identify each specific rule or law alleged by the
20 complainant to have been violated.

21 (3) Upon a determination by three-fifths of the appointed members of the
22 joint committee that the complaint states facts supporting a finding of probable
23 cause of a violation warranting impeachment, the committee shall proceed with
24 an investigation. The joint committee may appoint a special master or special
25 subcommittee to gather and report facts. Following any failure by the joint
26 committee to determine under this Paragraph that the complaint states facts
27 supporting a finding of probable cause of a violation warranting impeachment,
28 the complaint shall be dismissed.

29 (4) Unless dismissed, the committee shall investigate, give reasonable
30 notice to the respondent, and grant the respondent an opportunity to be heard.

1 Any special committee or special master's report and recommendation shall be
2 presented to the chair of the joint committee as soon as practicable after the
3 close of the investigation. If the report and recommendation conclude that the
4 facts do not support a finding of a violation warranting impeachment, the
5 complaint shall be dismissed unless three-fifths of the appointed members of the
6 joint committee vote to proceed.

7 (5) If the report and recommendation of the special master or the select
8 committee conclude that the facts support a finding of a violation warranting
9 impeachment, the joint committee shall consider the report and
10 recommendation, may make further inquiry, shall grant the respondent an
11 opportunity to be heard before it, and shall respond to the report by taking any
12 of the following actions: (a) dismiss the complaint; (b) issue a reprimand from
13 the joint committee; or (c) develop its own recommendation to the speaker of
14 the House of Representatives based on its investigation provided that any
15 recommendation for impeachment shall be pursuant to Paragraph (6) of this
16 Subsection.

17 (6) If the joint committee recommends impeachment by a three-fifths
18 vote of its appointed members, the speaker of the House of Representatives shall
19 present the committee's final recommendation along with any findings of the
20 special master or special committee, to the House for final action.

21 (7) No member of the joint committee is recused from further
22 consideration of the impeachment proceedings or a subsequent Senate trial.

23 D. Any material provided to the House of Representatives or joint
24 committee in response to a complaint filed under rule that is confidential under
25 applicable law shall remain confidential and shall not be disclosed to any person
26 unless impeachment proceedings are recommended.

27 E. A complaint under this Section must be filed within two years after
28 the alleged violation. A violation is committed when every element necessary to
29 establish a violation of the rule has occurred, and time starts to run on the day
30 after the violation occurred. A continuing violation does not prescribe. The

1 applicable period of limitation is tolled on the day a sworn complaint is filed
2 with the clerk of the House of Representatives.

3 F. When the House of Representatives is in recess or not in session, the
4 speaker of the House of Representatives may appoint a replacement for any
5 impeachment manager appointed by the House of Representatives if the
6 manager neglects or cannot perform the duties of a manager or if the manager
7 resigns. The speaker of the House of Representatives shall be the sole judge of
8 such matters.

9 G. The Senate shall determine the time for the trial of any impeachment
10 and may sit for the trial whether the legislature is in session or not. The
11 president of the Senate may fix special meetings of the Senate under Section 24
12 of Article X of the Constitution of Louisiana for this purpose. The president of
13 the Senate may appoint a special impeachment committee to develop the rules
14 and procedures for any particular impeachment.

15 §1423. Special legislative address concerning investigation of a judge

16 In lieu of bringing impeachment proceedings, the legislature by
17 concurrent resolution, adopted in accordance with all applicable rules for
18 passage of a bill, may refer to the Judiciary Commission for investigation any
19 matter concerning the conduct of a judge that it finds could constitute gross
20 misconduct or malfeasance.

21 §1424. Availability of other proceedings

22 Nothing in this Chapter shall be construed as precluding removal of any
23 official, including a judge, by impeachment at any time pursuant to Article X,
24 Section 24 of the Constitution of Louisiana, removal of a judge by the supreme
25 court pursuant to Article V, Section 25 of the Constitution of Louisiana, or
26 removal by suit of officials subject to the provisions of Article X, Section 25 of
27 the Constitution of Louisiana.

28 Section 2. This Act shall be known and may be cited as the "Jacob Carter Act".

29 Section 3. This Act shall become effective upon signature by the governor or, if not
30 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____